

UNITED STATES PATENT AND TRADEMARK OFFICE

cl

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/705,579	11/02/2000	Brian M. Fendly	P1053R1D1	5667
7	590 06/15/2005		EXAM	INER
Genentech Inc			YAEN, CHRISTOPHER H	
Wendy M Lee IDNA Way		ART UNIT	PAPER NUMBER	
South San Francisco, CA 94080-4990			1642	
			DATE MAILED: 06/15/2005	
		ı		

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner			Application No.	Applicant(s)				
Christopher H. Yaan	Office Action Summary		09/705,579	FENDLY, BRIAN M.				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Edulation to the time high exhibited wide the provision of 3° CTR 1.36(s). In no event, however, may a reply be timely filed Edulation to the many be a walked words the provision of 3° CTR 1.36(s). In no event, however, may a reply be timely filed Edulation to the spay is specified above is less than thirty (30) days, a reply within the statutory minimum of binty (30) days will be considered timely. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of binty (30) days will be considered timely. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of binty (30) days will be considered timely. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of binty (30) days will be considered timely. If the period for reply specified above is less than thirty (30) days and period to reply specified on the statutory minimum of binty (30) days will be considered timely. If the period for reply specified to reply specified to serve a reply within the statutory minimum of binty (30) days will be considered timely. If the period for reply specified to communication (5) filed on 21 March 2005. Zal) Minimum and the period of the scale of the communication will be considered timely. It is action is FinAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 42.44,55.63,65 and 69 is/are pending in the application. 4) Claim(s) 42.44,55.63,65 and 69 is/are pending in the application. 4) Claim(s) 42.44,55.63,65 and			Examiner	Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAIL INC DATE OF THIS COMMUNICATION. - after SIX (9) MONTHS toon the mailing date of this communication is 1.15(6). In no event, however, may a reply be timely filed and the six of the provided of the provided of the six of the six of the six of the provided of the six of t								
THE MAILING DATE OF THIS COMMUNICATION. Editations or time may be switched under the proteines of 3° CFR 1.13(6). In no event, however, may a reply be timely filed after SX (6) MONTISE from the mailing date of this communication. It NO period for may be switched under the proteines of 3° CFR 1.13(6). In no event, however, may a reply be timely filed after SX (6) MONTISE from the mailing date of this communication. It NO period for may be switched above, the maximum absorbly prefixed with the populary and wit experts (8) (8) MONTISE from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by attalute, cause the application to become ARANDONED (35 U.S.C. § 133). Any realy received by the diffice the thin the mornish after the mailing date of this communication, even it finally filed, may reduce any extended period to the set of the communication. It is action is FINAL. 2b) This action is filed on accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 42.44.55.63.65 and 69 is/are pending in the application. 4a) Of the above claim(s) is/are endlowed. Claim(s) 42.44.55.63.65 and 69 is/are rejected. 7) Claim(s) is/are allowed. Claim(s) 42.44.55.63.65 and 69 is/are rejected. 7) Claim(s) is/are objected to by the Examiner. Old The drawing(s) filed on is/are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) cocepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.35(a). 11) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 2) All b) some color the priority documents have been received in Application No. 2. Certified copies of the priority documents have been received in App			pears on the cover sheet with the c	orrespondence address				
1) Responsive to communication(s) filed on 21 March 2005. 2a) This action is FINAL. 2b) This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 42.44.55.63.65 and 69 is/are pending in the application. 4a) Of the above claim(s)	THE I Exter after If the If NO Failu Anys	MAILING DATE OF THIS COMMUNICATION. nsions of time may be available under the provisions of 37 CFR 1. SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a represended for reply is specified above, the maximum statutory period reto reply within the set or extended period for reply will, by statutely received by the Office later than three months after the mailing	136(a). In no event, however, may a reply be timely within the statutory minimum of thirty (30) days will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).				
2a) ☐ This action is FINAL. 3 ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 ☐ Claim(s) 42.44.55.63.65 and 69 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5 ☐ Claim(s) is/are allowed. 6 ☐ Claim(s) is/are objected to. 8 ☐ Claim(s) is/are objected to. 8 ☐ Claim(s) is/are objected to. 9 ☐ The specification is objected to by the Examiner. 10 ☐ The drawing(s) filed on is/are: ali accepted or bi ☐ objected to by the Examiner. Application Papers 9 ☐ The specification is objected to by the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11 ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12 ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All bi ☐ Some * ci ☐ None of: 1 ☐ Certified copies of the priority documents have been received in Application No 3 ☐ Copies of the certified copies of the priority documents have been received in Application No 3 ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. Attachment(e) 1 ☐ Notice of References Cited (PTO-892) 5 ☐ Notice of Informal Patent Application (PTO-152)	Status							
3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 42,44,55,63,65 and 69 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5 Claim(s) 42,44,55,63,65 and 69 is/are rejected. 7 Claim(s) is/are objected to. 8 Claim(s) 42,44,55,63,65 and 69 is/are rejected. 7 Claim(s) are subject to restriction and/or election requirement. Application Papers 9 The specification is objected to by the Examiner. 10 The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11 The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No. 2. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. Attachment(e) 1 Notice of References Cited (PTO-892) 2 Notice of Draftspersons Patent Drawing Review (PTO-948) 3 Information Discosure Stagement(s) (PTO-1449 or PTO/58/08)	1)⊠	Responsive to communication(s) filed on 21 h	March 2005.					
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 42,44,55,63,65 and 69 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) 42,44,55,63,65 and 69 is/are rejected. 7) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filled on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 1) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Discosure Staptement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Draftsperson's	2a)⊠	This action is FINAL . 2b) This action is non-final.						
Disposition of Claims 4) Claim(s) 42.44.55.63.65 and 69 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 7) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 10 Notice of References Cited (PTO-892) 11 Notice of References Cited (PTO-152)	3)□	☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
4) Claim(s) 42.44.55.63.65 and 69 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a accepted or b objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) Attachment(s)		closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) is/are allowed. 6) □ Claim(s) is/are allowed. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction and/or election requirement. Application Papers 9) □ The specification is objected to by the Examiner. 10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ All b) □ Some * c) □ None of: 1. □ Certified copies of the priority documents have been received. 2. □ Certified copies of the priority documents have been received in Application No 3. □ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) □ Notice of References Cited (PTO-892) 2) □ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) □ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) □ Notice of Informal Patent Application (PTO-152)	Dispositi	on of Claims						
4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) is/are allowed. 6) □ Claim(s) is/are allowed. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction and/or election requirement. Application Papers 9) □ The specification is objected to by the Examiner. 10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ All b) □ Some * c) □ None of: 1. □ Certified copies of the priority documents have been received. 2. □ Certified copies of the priority documents have been received in Application No 3. □ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) □ Notice of References Cited (PTO-892) 2) □ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) □ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) □ Notice of Informal Patent Application (PTO-152)	4)🖂	4) Claim(s) 42.44.55.63.65 and 69 is/are pending in the application.						
6) Claim(s) 42.44.55.63.65 and 69 is/are rejected. 7) Claim(s)		• • • • • • • • • • • • • • • • • • • •						
7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some c None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) Notice of Paftsperson's Patent Drawing Review (PTO-948) 3) Motice of Traftsperson's Patent Drawing Review (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)	5)[5) Claim(s) is/are allowed.						
Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some coll None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) Attachment(s) 1) Interview Summary (PTO-413) Paper No(s)/Mail Date 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08))⊠ Claim(s) <u>42,44,55,63,65 and 69</u> is/are rejected.						
Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) Paper No(s)/Mail Date 3) Interview Summary (PTO-413) Paper No(s)/Mail Date Notice of Informal Patent Application (PTO-152)								
9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Interview Summary (PTO-413) Paper No(s)/Mail Date Paper No(s)/Mail Date Notice of Informal Patent Application (PTO-152)	8)	Claim(s) are subject to restriction and/o	or election requirement.					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)	Applicati	on Papers						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)	9)[The specification is objected to by the Examina	er.					
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some colonic None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Internation Disclosure Statement(s) (PTO-1449 or PTO/SB/08)				Examiner.				
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☐ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) ☑ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)								
Priority under 35 U.S.C. § 119 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☐ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) ☑ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) ☐ Notice of Informal Patent Application (PTO-152)	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☐ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) ☑ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) ☐ Notice of Informal Patent Application (PTO-152)	11) 🗌 .	The oath or declaration is objected to by the E	xaminer. Note the attached Office	Action or form PTO-152.				
a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☐ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) ☑ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) ☐ Notice of Informal Patent Application (PTO-152)	Priority u	nder 35 U.S.C. § 119						
2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☐ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) ☑ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) ☐ Notice of Informal Patent Application (PTO-152)	12) 🗌 ,	Acknowledgment is made of a claim for foreigr ☐ All b)☐ Some * c)☐ None of:		-(d) or (f).				
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☐ Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) ☑ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 1 ☐ Notice of Informal Patent Application (PTO-152)	•							
application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) □ Notice of References Cited (PTO-892) 2) □ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) ☑ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) * See the attached detailed Office action for a list of the certified copies not received. 4) □ Interview Summary (PTO-413) Paper No(s)/Mail Date 5) □ Notice of Informal Patent Application (PTO-152)								
* See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) * See the attached detailed Office action for a list of the certified copies not received. 4) Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)		•						
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)	· · · · · · · · · · · · · · · · · · ·							
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)	and allability detailed office delicit for a list of the certified copies flot received.							
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)								
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date Notice of Informal Patent Application (PTO-152)	_	• •						
3) 🔀 Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) 🔲 Notice of Informal Patent Application (PTO-152)								
	3) 🔀 Inform	nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) D Notice of Informal Pa					

Application/Control Number: 09/705,579 Page 2

Art Unit: 1642

DETAILED ACTION

Re: Fendly et al

1. The amendment filed 3/21/2005 is acknowledged and entered into the record.

Accordingly, claims 1-41,43,45-54,56-62,64, and 66-68 are canceled without prejudice

or disclaimer, and claim 69 is newly added.

2. Claims 42,44,55,63, 65, and 69 are pending and examined on the merits.

3. The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

Claim Rejections Maintained - 35 USC § 103

4. The rejection of claims 42,44,55,63,65, and 69 under 35 USC § 103(a) as being

obvious over Hudziak et al (US Patent 5,720,954) in view of Pauwels et al (J. Pharm.

Pharmacol. 1995 Oct. 47(10):870-875) is maintained for the reasons of record.

Applicant argues that the combination of a Her 2 antibody and vinorelbine for the

treatment of neoplastic disease over-expressing the Her2 receptor is an unexpected

result. Applicant supports this assertion by relying on a press release (filed 3/21/2005)

and cited references (i.e. Burstein et al and Filipovich et al). Applicant's arguments

have been carefully considered but are not deemed persuasive to overcome the

rejection of record.

Any differences between the claimed invention and the prior art may be expected

to result in some differences in properties. The issue is whether the properties differ to

such an extent that the difference is really unexpected. In re Merck & Co., 800 F.2d

Application/Control Number: 09/705,579 Page 3

Art Unit: 1642

1091, 231 USPQ 375 (Fed. Cir. 1986). Applicants must show that the results were greater than those which would have been expected from the prior art to an unobvious extent, and that the results are of a significant, practical advantage. Ex parte The NutraSweet Co., 19 USPQ2d 1586 (Bd. Pat. App. & Inter. 1991). In the instant case, applicant has not provided any indication that the use of vinorelbine in combination with an anti-Her2 antibody would have shown any unexpected difference as compared to the use of a Her2 antibody in combination with other vinca drugs in the same family. As indicated in the last office action (mailed 9/20/2004), the vinca alkaloid family appears to rely on the same mechanism of action. Therefore one of ordinary skill in the art would expect that the use of any vinca alkaloid drug would have the same effect on the treatment of malignant disease. Where the unexpected properties of a claimed invention are not shown to have a significance equal to or greater than the expected properties, the evidence of unexpected properties may not be sufficient to rebut the evidence of obviousness. In re Nolan, 553 F.2d 1261, 1267, 193 USPQ 641, 645 (CCPA 1977).

Therefore the rejection of claims under 35 USC 103(a) as being obvious is maintained for the reasons of record.

Conclusion

No claim is allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher H. Yaen whose telephone number is 571-272-0838. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Yaen Art Unit 1642 June 8, 2005

JEFFREY SIEW
SUPERVISORY PATENT EXAMINER

Page 4